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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,803	01/13/2004	Roy K. Greenberg	8627-384	1524
757	7590	07/29/2005	EXAMINER	
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			GHERBI, SUZETTE JAIME J	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/756,803	Applicant(s) GREENBERG ET AL.	
	Examiner Suzette J. Gherbi	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 12, 15, 16 and 21-23 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11, 13, 14, 17-20, 24-30 and 32 is/are allowed.
- 6) ☒ Claim(s) 31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/20/04; 6/28/04</u> . | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> . |

Continuation of Attachment(s) 6). Other: Applicant has submitted 2 pages of IDS with different serial numbers and docket numbers therefore these pages have been lined through and not considered..

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species A (Figures 1-4c) in the reply filed on 5/13/04 is acknowledged. Applicant traverses on the grounds that the species are not patentably distinct however applicant has not submitted evidence or identified such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention. If claim 1 is found to be generic then rejoinder practice may apply.
2. The requirement is still deemed proper because variants in the invention are disclosed and is therefore made FINAL.

Claim Rejections - 35 USC § 102

- 3.. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 31 is rejected under 35 U.S.C. 102(b) as being anticipated by Shmulewitz 5,961,548. Shmulewitz discloses the invention as currently claimed comprising: A

method of providing a prosthetic trunk/first section (11); providing a prosthetic branch having a proximal and distal end (15, 25); "anastomosing" the proximal end of the prosthetic branch to the trunk (figure 6c and col. 5, lines 24-24); and positioning the prosthetic branch and attaching the branch to the trunk so as to provide a helical fluid passage (*it is inherent that a helical fluid passage is provided because the branch 15 is helical and the blood flows through this passage and it is also pointed out that a helical fluid passage is completely different from a fluid passage in a helical direction.*

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bottcher et al. 6,620,202. Bottcher et al. discloses the invention as claimed comprising :
providing a prosthetic trunk(22, 222) ; providing a prosthetic branch (24, 214, 224) with proximal and distal end and positioning the branch and attaching the branch to the trunk so as to provide a helical fluid passage (see col. 1, lines 51-54 which discloses a first and second lumen in the trunk and the branch) however Bottcher et al. does not specify the term "anastomosing". However Botcher et al. does state (see figure 14 and col. 8,

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lines 26-30) that the coil is "attached" to the shaft of the stent 210 at the neck. It would have been obvious to one having ordinary skill in the art at the time the invention was made to "anastomos" the coiled branch to the truck because both structures are already in fluid communication with one another and by "anastomosing" would provide a greater volume of fluid passage.

Allowable Subject Matter

7. Claim 1-11, 13, 14, 17-20, 24-30, 32 are allowed.

Conclusion


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Houser et al. 6,599,302 ; Doorley et al. 6,554,856 ; Caro 6,039,754 ; Keshelava 5,413,601 ; Phan et al. 5,129,910 ; Fogarty et al. 4,762,130; Gupte et al. 4,592,754; ; and Wells-Roth RE37,107 which all show related material.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzette J. Jackson whose work schedule is Monday-Friday 9-6:30 off every other Friday and whose telephone number is 571-272-4751.

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10. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306.

11. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.



Suzette J-J Gherbi
21 July 2005